



Patent
Attorney's Docket No. 1022701-000854

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of) **MAIL STOP AF**
Nicolangelo PEDUTO et al.) Group Art Unit: 1782
Application No.: 09/462,179) Examiner: Marc A. Patterson
Filed: March 10, 2000) Confirmation No.: 4762
For: MULTILAYER STRUCTURE BASED)
ON POLYAMIDES AND TUBE OR)
CONDUIT WITH MULTILAYER)
STRUCTURE)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request a Pre-Appeal Brief Conference to seek further review of the above-identified application. No amendments are being filed with this Request. A Notice of Appeal is being concurrently filed with this Request.

For at least the following reasons, it is submitted that the rejection set forth in the final Official Action dated July 27, 2010, is clearly improper and without basis.

REMARKS

At the outset, Applicants note that the Advisory Action dated December 8, 2010, indicates that for purposes of appeal, the Amendment filed on November 15, 2010, will be entered. Thus, the present Pre-Appeal Brief Request for Review is with respect to the listing of claims set forth in the Amendment filed on November 15, 2010.

Claims 1-3, 5-11, 19, 21-25 and 27-29 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,425,817 (*Mugge et al*) in view of U.S. Patent No. 5,039,786 (*Pipper et al*) and U.S. Patent No. 4,212,965 (*Campbell*). Claims 12 and 14-18 stand rejected under 35 U.S.C. §103(a) as being obvious over *Mugge et al* in view of *Pipper et al* and *Campbell*, and further in view of European Patent Document No. 0 646 627 (*Princiotta et al*). Claim 13 stands rejected under 35 U.S.C. §103(a) as being obvious over *Mugge et al* in view of *Pipper et al* and *Campbell*, and further in view of U.S. Patent No. 5,357,030 (*VanBuskirk et al*). Claim 26 stands rejected under 35 U.S.C. §103(a) as being obvious over *Mugge et al* in view of *Pipper et al* and *Campbell*, and further in view of U.S. Patent No. 4,881,576 (*Kitami et al*). Withdrawal of these rejections is respectfully requested for at least the following reasons.

Claim 1 recites that at least one internal layer is in direct contact with the external layer. *Mugge et al* fails to disclose or suggest such claimed subject matter. In this regard, the Patent Office has alleged that the inner and outer layers disclosed by *Mugge et al* correspond to the claimed internal and external layers, respectively. See Final Official Action at page 2. However, *Mugge et al* teaches the use of an intermediate layer comprising a linear, crystalline polyester-based molding composition interposed between and bonding together the inner and outer layers.

See abstract and col. 1, lines 56-59. It would not have been obvious to the ordinarily skilled artisan to modify *Mugge et al* by removing such intermediate layer from the pipe, in view of the fact that *Mugge et al* teaches the criticality of such layer in bonding together the inner and outer layers of the pipe. See Amendment filed on November 15, 2010, at page 8.

The Examiner has relied on *Campbell* for disclosing a polyamide, and has suggested adding such polyamide to the intermediate bonding layer of *Mugge et al*. See Advisory Action at page 2. It is clear from *Mugge et al*, however, that polyamide is not considered for use as an impact modifier in the intermediate bonding layer. *Mugge et al* teaches the use of a polyamide-based molding composition in its inner and outer layers, but does not include such material in the intermediate bonding layer, which serves an entirely different purpose from the inner and outer layers. Further, while *Mugge et al* is clearly aware of polyamide-based materials, such material is not included in the extensive list of possible impact modifiers set forth at column 3, lines 24-39. In view of such disclosures, it would not have been obvious to modify the intermediate bonding layer by providing a polyamide impact modifier thereto.

The other secondary applied documents fail to cure the above-described deficiencies of *Mugge et al*. Even if the other secondary applied documents would have combined with *Mugge et al* in the manner suggested by the Patent Office, the resulting combination nevertheless fails to disclose or suggest that at least one internal layer is in direct contact with the external layer, as recited in claim 1. Such secondary applied documents are discussed at pages 8-9 of the Amendment filed on November 15, 2010.

For at least the above reasons, it is apparent that the claims are non-obvious over the applied art. Accordingly, withdrawal of the §103(a) rejections is respectfully requested.

No fee is believed to be due in connection with the filing of this paper. However, the Director is hereby authorized to charge any appropriate fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

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